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Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

Federal Communications Commission
 Office of Secretary

In the Matter of)
)
 Implementation of the Local) CC Docket No. 96-98
 Competition Provisions in the)
 Telecommunications Act of 1996)

**REPLY COMMENTS ON PETITION OF THE PENNSYLVANIA
 PUBLIC UTILITY COMMISSION FOR EXPEDITED WAIVER
 OF THE TEN-DIGIT DIALING REQUIREMENT OF 47 C.F.R § 52.19
FOR 412 NPA OVERLAY AREA CODE RELIEF**

Teleport Communications Group Inc. ("TCG") hereby replies to comments filed regarding the Petition for Expedited Waiver of 47 C.F.R. § 52.19, submitted by the Pennsylvania Public Service Commission ("PaPUC"). This rule provides that for an overlay plan to be implemented, mandatory ten-digit dialing must be imposed within and between the existing and overlay area codes. A number of commenters have submitted letters to the Commission in support of the PaPUC's waiver request and ask that seven-digit dialing be retained in the Pittsburgh area.¹ Generally, these parties claim that consumers should not be "forced" to change

1. See Letters of Citizens Telephone Company of Kecksburg (dated March 5, 1997); Hickory Telephone Company (dated March 4, 1997); The Bentleyville Telephone Company (dated March 5, 1997); Marianna and Scenery Hill Telephone Company (dated March 5, 1997); North Pittsburgh Telephone Company (dated March 5, 1997); State Senator J. Barry Stout (dated March 5, 1997); State Senator Albert V. Belan (dated March 5, 1997); State Senator Melissa A. Hart (dated March 6, 1997); State Senator Richard A. Kasunic (dated March 6, 1997); Congressman Frank Mascara (dated March 5, 1997); James C. Roddey, Allegheny Media (dated March 6, 1997); Pennsylvania Economy League (dated March 6, 1997); WQED Pittsburgh (dated March 5, 1997); Three Rivers Area Labor Management Committee (dated March 6, 1997).

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from the familiar seven-digit dialing pattern to ten-digit dialing. However, as AT&T, MCI, Sprint, Worldcom, and TCG have conclusively demonstrated, waiver of the Commission's rule is not warranted.

The rationale of the oppositions to the ten-digit dialing requirement clearly demonstrate the necessity of retaining and enforcing the mandate of Section 52.19. These parties express an interest in retaining "the ease, convenience and familiarity of 7-digit dialing,"² thereby suggesting that consumers will not choose to subscribe to a carrier if ten-digit dialing patterns would be the result, precisely as TCG and other opponents of the PaPUC's petition have explained. If the PaPUC petition were granted, then competitive local exchange carrier ("CLEC") customers in the Pittsburgh area would be subject to disparate dialing requirements as compared to incumbent local exchange carrier ("ILEC") customers. Only the customers of CLECs would be required to dial ten digits to reach the vast majority of numbers in the existing 412 NPA. The Commission adopted Section 52.19 specifically to avoid just this anti-competitive and disparate treatment and to encourage competitive choices for customers by alleviating the anti-competitive and discriminatory dialing disparity that otherwise would be imposed on CLEC customers in the event of an overlay plan. Moreover, the inherently anti-

2. Letters of The Bentleyville Telephone Company; Marianna and Scenery Hill Telephone Company; State Senator J. Barry Stout; State Senator Albert V. Belan; State Senator Melissa A. Hart; State Senator Richard A. Kasunic; Congressman Frank Mascara; James C. Roddey, Allegheny Media; Pennsylvania Economy League; WQED Pittsburgh.

competitive features of overlay plans simply are not overcome, as argued by the PaPUC and Bell Atlantic, by interim number portability.³

The mandatory ten-digit dialing requirement serves the public interest. Under the PaPUC's plan, the majority of CLEC customers, for all practical purposes, would be required to dial ten digits to complete local calls to the predominant, existing NPA, thereby deterring potential customers from switching to a competitive service provider. CLECs, which have not received a sufficient number of NXX blocks throughout the entire 412 NPA, will be required to issue numbers immediately from the new area code. This is because they will not be able to fulfill service requests from customers served by rate centers for which the CLECs have no NXX blocks. Customers who are assigned numbers from NXXs associated with the overlay area code will regularly have to dial ten digits, because the vast majority of called numbers have been assigned from the 412 NPA. Clearly, there is a countervailing public interest favoring a competitive telecommunications market that requires the prohibition of dialing disparity that would result if the PaPUC's waiver request were granted. While many consumers may wish to dial only seven digits for local calling, a class of consumers should not be discouraged from subscribing to CLECs based on the fact that staying with the

3. See AT&T at 2 ("[The Commission] concluded that portability measures alone were not sufficient to eliminate the potential anticompetitive effects of overlays"); MCI at 2 ("The PAPUC's conclusion is severely flawed because it ignores the fact that a significant portion of new entrants' customers will be served by new telephone numbers, as opposed to existing numbers that are also ported."); Sprint at 3.

incumbent carrier ensures retaining, for the most part,⁴ the seven-digit dialing pattern.

Moreover, the claims that CLECs have been issued adequate NXXs in the 412 NPA fail to address the point that one NXX does not provide the CLEC with numbers it can issue throughout the entire NPA. As TCG stated in its comments, an NXX block is tied to an ILEC designated rate center.⁵ Thus, the statement by Bell Atlantic NYNEX Mobile is clearly incorrect in asserting that "CLECs and other carriers other than the incumbent LEC already hold literally hundreds of NXX number blocks in the 412 NPA . . . , affording them ample opportunity to offer 412 numbers to their customers."⁶

Nonetheless, seven-digit dialing and a level playing field for competitors are not mutually exclusive. To retain seven-digit dialing within an NPA for all customers, the PaPUC could have ordered — and probably still could order — the implementation of a geographic code split.⁷ Code splits have been the traditional means of implementing area code relief plans, and in this case, would have

4. Even if mandatory ten-digit dialing is not required within area codes, ten-digit dialing will be required to complete calls between the existing and overlay area codes.

5. See also MCI at 4.

6. Bell Atlantic NYNEX Mobile at 2.

7. Some parties argue that it is in the public interest to permit the PaPUC to implement its plan under a waiver of Section 52.19 because the PaPUC preferred certain features of the all-services overlay. See, e.g., Bell Atlantic NYNEX Mobile at 3. However, denial of the PaPUC's request will not undo its selection or result in number exhaust, but merely will ensure that competitive protections remain in place, as required under the Commission's rules.

satisfied the preference expressed by some commenters in this proceeding to retain seven-digit dialing. TCG is not opposed to seven-digit dialing, but it is opposed to retaining seven-digit dialing while implementing an overlay code plan that is detrimental to competition. Indeed, the PaPUC and the Commission are both aware that seven-digit dialing can be retained with the implementation of a geographic code split, the option that has been supported by TCG throughout the PaPUC's proceeding. Having rejected the code split, however, an area code overlay must be implemented in accordance with the conditions established by the Commission seven months ago.

Finally, TCG agrees with Bell Atlantic that the Commission should address this issue quickly. However, no waiver should be granted on the theory that it is becoming too late to do anything else,⁸ which would reward the PaPUC's failure to adapt its overlay plan to the Commission's rules. Instead, the Commission should deny the petition and affirm its policy that an overlay plan can only be implemented when its anti-competitive features are mitigated, to some degree, by the sensible condition imposed by Section 52.19 of the Commission's rules. TCG therefore agrees with Worldcom that granting a waiver under the circumstances presented here "would set a precedent for state commissions and Bell companies to request additional waivers,"⁹ and thus would eviscerate the Commission's fundamental policy regarding the conditions under which overlay plans may be

8. See Bell Atlantic at 2.

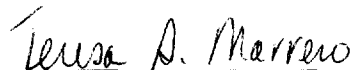
9. Worldcom at 5.

implemented.

For these reasons, the Commission should deny the Pennsylvania Public Utility Commission's Petition for Expedited Waiver of the ten-digit dialing requirement to implement it 412 Area Code Order.

Respectfully submitted,

TELEPORT COMMUNICATIONS GROUP INC.



Teresa A. Marrero
Teresa A. Marrero
Senior Regulatory Counsel - Federal
One Teleport Drive
Staten Island, New York 10311
(718) 355-2671

Paul Kouroupas, Vice President
Regulatory and External Affairs - Eastern Region
(202) 739-0030

Dated: March 12, 1997

CERTIFICATE OF SERVICE

I, Marjorie A. Schroeder, do hereby certify that a copy of Reply Comments on Petition of the Pennsylvania Public Utility Commission for Expedited Waiver of the Ten-Digit Dialing Requirement of 47 C.F.R. § 52.19 for 412 NPA Overlay Area Code Relief was sent by first-class mail, postage prepaid on this 12th day of March, 1997 to the following:

William F. Caton*
Federal Communications
Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

ITS*
2100 M Street, N.W.
Suite 140
Washington, D.C. 20037

Chief, Network Services
Division*
Room 235
2000 M Street, N.W.
Washington, D.C. 20554

Maureen A. Scott
Assistant Counsel
Commonwealth of Pennsylvania
Pennsylvania Public Utility
Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

Citizens Telephone Company of
Kecksburg
George Achtziger
P.O. Box 156
Route 982
Mammoth, PA 15664-0156

Hickory Telephone Company
Grier Adamson
75 Main Street
P.O. Box 426
Hickory, Pennsylvania 15340

The Bentleyville Telephone Company
Richard J. D'Antonio
608 Main Street
Bentleyville, Pennsylvania 15314

Marianna and Scenery Hill Telephone
Company
Scott W. Horne
P.O. Box 308
Marianna, PA 15345

North Pittsburgh Telephone Company
Gerald A. Gorman
4008 Gibsonia Road
Gibsonia, PA 15044-9311

Honorable J. Barry Stout
Senate of Pennsylvania
Senate Box 203046
Room 10-EW
The State Capitol
Harrisburg, PA 17120-3046

Honorable Albert V. Belan
Senate of Pennsylvania
Senate Box 203045
The State Capitol
Harrisburg, PA 17120-3045

Honorable Frank Mascara
U.S. House of Representatives
314 Cannon HOB
Washington, D.C. 20515

Three Rivers Area Labor
Management Committee
Michael C. Herman
106 S. 18th Street
Pittsburgh, PA 15203

WQED Pittsburgh
B.J. Leber
Communications & Outreach
4802 Fifth Avenue
Pittsburgh, PA 15213

Honorable Richard A. Kasunic
32nd District
Senate Box 203032
Harrisburg, PA 17120

Honorable Melissa A. Hart
40th District
Senate Post Office
Harrisburg, PA 17120

Pennsylvania Economy
League
Richard A. Stafford
600 Grant Street
Suite 4444
Pittsburgh, PA 15219

Allegheny Media
James C. Roddey
100 Greentree Commons
381 Mansfield Avenue
Pittsburgh, PA 15220

Bell Atlantic-PA
John M. Goodman
1133 20th Street, N.W.
Washington, D.C. 20036

Bell Atlantic NYNEX Mobile, Inc.
John T. Scott, III
Crowell & Moring LLP
1001 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

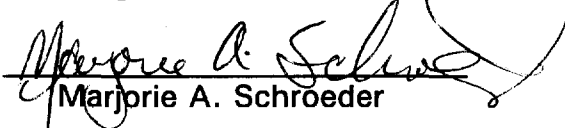
AT&T Corp.
James H. Bolin
295 North Maple Avenue
Room #3247H3
Basking Ridge, NJ 07920

MCI Telecommunications Corp.
Donna M. Roberts
1801 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Sprint Corporation
Jay C. Keithley
1850 M Street, N.W.
11th Floor
Washington, D.C. 20036

Sprint Corporation
Sandra K. Williams
P.O. Box 11315
Kansas City, MO 64112

Worldcom, Inc.
Andrew D. Lipman
Morton J. Posner
Swidler & Berlin
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007


Marjorie A. Schroeder

*via hand delivery